

**U.S. District Court
Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:17-cv-03566-DLC**

Gizmodo Media Group, LLC v. Department of Justice
Assigned to: Judge Denise L. Cote
Cause: 05:552 Freedom of Information Act

Date Filed: 05/12/2017
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

Gizmodo Media Group, LLC

represented by **David A. Schulz**
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V.

Defendant

Department of Justice

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Date Filed	#	Docket Text
05/12/2017	<u>1</u>	COMPLAINT against Department of Justice. (Filing Fee \$ 400.00, Receipt Number 0208-13656324) Document filed by Gizmodo Media Group, LLC.(McClanahan, Kelly) (Entered: 05/12/2017)
05/12/2017	<u>2</u>	FILING ERROR – DEFICIENT PLEADING – SUMMONS REQUEST PDF ERROR – REQUEST FOR ISSUANCE OF SUMMONS as to U.S. Attorney General; Department of Justice; U.S. Attorney – SDNY, re: <u>1</u> Complaint. Document filed by Gizmodo Media Group, LLC. (Attachments: # <u>1</u> Summons, # <u>2</u> Summons)(McClanahan, Kelly) Modified on 5/15/2017 (jvs). (Entered: 05/12/2017)
05/12/2017	<u>3</u>	CIVIL COVER SHEET filed. (McClanahan, Kelly) (Entered: 05/12/2017)
05/15/2017		CASE OPENING INITIAL ASSIGNMENT NOTICE: The above–entitled action is assigned to Judge Denise L. Cote. Please download and review the Individual Practices of the assigned District Judge, located at http://nysd.uscourts.gov/judges/District . Attorneys are responsible for providing courtesy copies to judges where their Individual Practices require such. Please download and review the ECF Rules and Instructions, located at http://nysd.uscourts.gov/ecf_filing.php . (jvs) (Entered: 05/15/2017)
05/15/2017		Magistrate Judge James C. Francis IV is so designated. Pursuant to 28 U.S.C. Section 636(c) and Fed. R. Civ. P. 73(b)(1) parties are notified that they may consent to proceed before a United States Magistrate Judge. Parties who wish to consent may access the necessary form at the following link: http://nysd.uscourts.gov/forms.php . (jvs) (Entered: 05/15/2017)
05/15/2017		Case Designated ECF. (jvs) (Entered: 05/15/2017)
05/15/2017		***NOTICE TO ATTORNEY REGARDING DEFICIENT REQUEST FOR ISSUANCE OF SUMMONS. Notice to Attorney to RE–FILE Document No. <u>2</u> Request for Issuance of Summons,. The filing is deficient for the following reason(s): When requesting Summons, they must be filed as separate events.,. Re–file the document using the event type Request for Issuance of Summons found under the event list Service of Process – select the correct filer/filers – and attach the correct summons form PDF. (jvs) (Entered: 05/15/2017)
05/19/2017	<u>4</u>	FILING ERROR – DEFICIENT SUMMONS –PARTY NAME ERROR REQUEST FOR ISSUANCE OF SUMMONS as to U.S. Attorney General, re: <u>1</u> Complaint. Document filed by Gizmodo Media Group, LLC. (McClanahan, Kelly) Modified on 5/23/2017 (kl). (Entered: 05/19/2017)
05/19/2017	<u>5</u>	REQUEST FOR ISSUANCE OF SUMMONS as to Department of Justice, re: <u>1</u> Complaint. Document filed by Gizmodo Media Group, LLC. (McClanahan, Kelly) (Entered: 05/19/2017)
05/19/2017	<u>6</u>	FILING ERROR – DEFICIENT SUMMONS –PARTY NAME ERROR REQUEST FOR ISSUANCE OF SUMMONS as to U.S. Attorney – SDNY, re: <u>1</u> Complaint. Document filed by Gizmodo Media Group, LLC. (McClanahan, Kelly) Modified on 5/23/2017 (kl). (Entered: 05/19/2017)
05/23/2017	<u>7</u>	ELECTRONIC SUMMONS ISSUED as to Department of Justice. (kl) (Entered: 05/23/2017)
05/23/2017		***NOTICE TO ATTORNEY REGARDING DEFICIENT REQUEST FOR ISSUANCE OF SUMMONS. Notice to Attorney to RE–FILE Document No. <u>6</u> Request for Issuance of Summons, <u>4</u> Request for Issuance of Summons. The filing is deficient for the following reason(s): Party U.S. Attorney General and U.S. Attorney – SDNY are not parties on the pleading/ECF. Re–file the document using the event type Request for Issuance of Summons found under the event list Service of Process – select the correct filer/filers – and attach the correct summons form PDF. (kl) (Entered: 05/23/2017)

05/24/2017	<u>8</u>	REQUEST FOR ISSUANCE OF SUMMONS as to DOJ, re: <u>1</u> Complaint. Document filed by Gizmodo Media Group, LLC. (McClanahan, Kelly) (Entered: 05/24/2017)
05/24/2017	<u>9</u>	REQUEST FOR ISSUANCE OF SUMMONS as to DOJ, re: <u>1</u> Complaint. Document filed by Gizmodo Media Group, LLC. (McClanahan, Kelly) (Entered: 05/24/2017)
05/24/2017	<u>10</u>	ELECTRONIC SUMMONS ISSUED as to Department of Justice. (laq) (Entered: 05/24/2017)
05/24/2017	<u>11</u>	ELECTRONIC SUMMONS ISSUED as to Department of Justice. (laq) (Entered: 05/24/2017)
06/07/2017	<u>12</u>	SUMMONS RETURNED EXECUTED (FOIA CASE) Summons and Complaint served. Department of Justice served on 6/5/2017, answer due 7/5/2017. Service was made by Mail. Document filed by Gizmodo Media Group, LLC. (McClanahan, Kelly) (Entered: 06/07/2017)
06/08/2017	<u>13</u>	NOTICE OF APPEARANCE by Andrew Edward Krause on behalf of Department of Justice. (Krause, Andrew) (Entered: 06/08/2017)
06/30/2017	<u>14</u>	NOTICE OF INITIAL PRETRIAL CONFERENCE (Notice): Initial Conference set for 8/18/2017 at 11:00 AM in Courtroom 15B, 500 Pearl Street, New York, NY 10007 before Judge Denise L. Cote. –Please follow the procedures set forth in the Notice. (Signed by Judge Denise L. Cote on 6/30/2017) (gr) (Entered: 06/30/2017)
07/05/2017	<u>15</u>	ANSWER to <u>1</u> Complaint. Document filed by Department of Justice.(Krause, Andrew) (Entered: 07/05/2017)
08/10/2017	<u>16</u>	JOINT LETTER MOTION to Adjourn Conference <i>and Set Briefing Schedule</i> addressed to Judge Denise L. Cote from Kelly B. McClanahan and Andrew E. Krause dated 8/10/17. Document filed by Gizmodo Media Group, LLC.(McClanahan, Kelly) (Entered: 08/10/2017)
08/15/2017	<u>17</u>	MEMO ENDORSED letter addressed to Judge Cote from counsel for the plaintiff and the Government dated 8/10/2017 re: 8/18/2017 initial pretrial conference and proposed briefing schedule as follows: Defendant's motion for summary judgment due 9/22/2017; Plaintiff's opposition and cross-motion for summary judgment due 10/20/2017; Defendant's reply and opposition due 11/10/2017; Plaintiff's reply due 12/1/2017. ENDORSEMENT: The conference is adjourned sine die. The briefing schedule is adopted. (Signed by Judge Denise L. Cote on 8/15/2017) (gr) (Entered: 08/15/2017)
09/12/2017	<u>18</u>	LETTER MOTION for Extension of Time addressed to Judge Denise L. Cote from Andrew E. Krause dated September 12, 2017. Document filed by Department of Justice.(Krause, Andrew) (Entered: 09/12/2017)
09/13/2017	<u>19</u>	MEMO ENDORSEMENT granting revised briefing scheduling as follows: Defendant's motion for summary judgment: 9/27/2017; Plaintiff's opposition and cross-motion for summary judgment: 10/25/2017; Defendant's reply and opposition: 11/15/2017; and Plaintiff's reply: 12/6/2017. (Signed by Judge Denise L. Cote on 9/13/2017) (gr) (Entered: 09/13/2017)
09/27/2017	<u>20</u>	MOTION for Summary Judgment . Document filed by Department of Justice. Responses due by 10/25/2017(Krause, Andrew) (Entered: 09/27/2017)
09/27/2017	<u>21</u>	MEMORANDUM OF LAW in Support re: <u>20</u> MOTION for Summary Judgment . . Document filed by Department of Justice. (Krause, Andrew) (Entered: 09/27/2017)
09/27/2017	<u>22</u>	DECLARATION of G. Bradley Weinsheimer in Support re: <u>20</u> MOTION for Summary Judgment .. Document filed by Department of Justice. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C)(Krause, Andrew) (Entered: 09/27/2017)
10/25/2017	<u>23</u>	LETTER addressed to Judge Denise L. Cote from Kelly B. McClanahan dated 10/25/17 re: Unopposed motion to modify briefing schedule. Document filed by Gizmodo Media Group, LLC.(McClanahan, Kelly) (Entered: 10/25/2017)
10/26/2017	<u>24</u>	ENDORSED LETTER addressed to Judge Denise L. Cote from Kelly B. McClanahan dated 10/25/17 re: Unopposed motion to modify briefing schedule as follows: Plaintiff's opposition and cross-motion for summary judgment: 11/3/2017;

		Defendant's reply and opposition: 11/29/2017; Plaintiff's reply: 12/20/2017. ENDORSEMENT: Granted. (Signed by Judge Denise L. Cote on 10/25/2017) (gr) (Entered: 10/26/2017)
11/01/2017	<u>25</u>	LETTER addressed to Judge Denise L. Cote from Kelly B. McClanahan dated 11/1/17 re: Unopposed motion to modify briefing schedule. Document filed by Gizmodo Media Group, LLC.(McClanahan, Kelly) (Entered: 11/01/2017)
11/03/2017	<u>26</u>	ENDORSED LETTER addressed to Judge Denise L. Cote from Kelly B. McClanahan dated 11/1/17 re: Unopposed motion to modify briefing schedule as follows: Plaintiff's opposition and cross-motion for summary judgment: 11/14/2017; Defendant's reply and opposition: 12/15/2017; Plaintiff's reply: 1/19/2018. ENDORSEMENT: There will be no further modification of this schedule. The proposed schedule is adopted. (Signed by Judge Denise L. Cote on 11/3/2017) (gr) (Entered: 11/03/2017)
11/14/2017	<u>27</u>	NOTICE OF APPEARANCE by David A. Schulz on behalf of Gizmodo Media Group, LLC. (Schulz, David) (Entered: 11/14/2017)
11/14/2017	<u>28</u>	NOTICE OF APPEARANCE by Jeremy Alexander Kutner on behalf of Gizmodo Media Group, LLC. (Kutner, Jeremy) (Entered: 11/14/2017)
11/14/2017	<u>29</u>	NOTICE of Withdrawal of Counsel. Document filed by Gizmodo Media Group, LLC. (McClanahan, Kelly) (Entered: 11/14/2017)
11/14/2017	<u>30</u>	CROSS MOTION for Summary Judgment . Document filed by Gizmodo Media Group, LLC.(Schulz, David) (Entered: 11/14/2017)
11/14/2017	<u>31</u>	MEMORANDUM OF LAW in Support re: <u>30</u> CROSS MOTION for Summary Judgment . <i>and in Opposition to Defendant's Motion for Summary Judgment, Dkt. No. 20.</i> Document filed by Gizmodo Media Group, LLC. (Schulz, David) (Entered: 11/14/2017)
11/14/2017	<u>32</u>	DECLARATION of Jeremy A. Kutner in Support re: <u>30</u> CROSS MOTION for Summary Judgment .. Document filed by Gizmodo Media Group, LLC. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4)(Schulz, David) (Entered: 11/14/2017)
12/15/2017	<u>33</u>	REPLY MEMORANDUM OF LAW in Support re: <u>20</u> MOTION for Summary Judgment . <i>and in opposition to Plaintiff's cross-motion for summary judgment [Dkt. No. 30].</i> Document filed by Department of Justice. (Krause, Andrew) (Entered: 12/15/2017)
12/15/2017	<u>34</u>	DECLARATION of G. Bradley Weinsheimer in Support re: <u>20</u> MOTION for Summary Judgment .. Document filed by Department of Justice. (Krause, Andrew) (Entered: 12/15/2017)
01/19/2018	<u>35</u>	NOTICE OF CHANGE OF ADDRESS by Jeremy Alexander Kutner on behalf of Gizmodo Media Group, LLC. New Address: Ballard Spahr LLP, 1675 Broadway, 19th Floor, New York, NY, US 10019-5820, 212-850-6107. (Kutner, Jeremy) (Entered: 01/19/2018)
01/19/2018	<u>36</u>	NOTICE OF CHANGE OF ADDRESS by David A. Schulz on behalf of Gizmodo Media Group, LLC. New Address: Ballard Spahr LLP, 1675 Broadway, 19th Floor, New York, NY, US 10019-5820, 212-850-6103. (Schulz, David) (Entered: 01/19/2018)
01/19/2018	<u>37</u>	REPLY MEMORANDUM OF LAW in Support re: <u>30</u> CROSS MOTION for Summary Judgment . . Document filed by Gizmodo Media Group, LLC. (Schulz, David) (Entered: 01/19/2018)
02/05/2018	<u>38</u>	MOTION To Supplement The Record . Document filed by Gizmodo Media Group, LLC.(Schulz, David) (Entered: 02/05/2018)
02/05/2018	<u>39</u>	DECLARATION of David A. Schulz in Support re: <u>38</u> MOTION To Supplement The Record .. Document filed by Gizmodo Media Group, LLC. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B)(Schulz, David) (Entered: 02/05/2018)
02/20/2018	<u>40</u>	RESPONSE to Motion re: <u>38</u> MOTION To Supplement The Record . <i>and joint proposal for next steps in this matter.</i> Document filed by Department of Justice.

		(Krause, Andrew) (Entered: 02/20/2018)
02/21/2018	<u>41</u>	ORDER: On consent of the parties, it is hereby ORDERED that the pending motions are held in abeyance until March 23, 2018. IT IS FURTHER ORDERED that a joint status letter is due on March 23, 2018. (Signed by Judge Denise L. Cote on 2/21/2018) (gr) (Entered: 02/21/2018)
03/23/2018	<u>42</u>	STATUS REPORT. <i>filed in accordance with the Court's February 21, 2018 order (Dkt. No. 41)</i> Document filed by Department of Justice. (Attachments: # <u>1</u> Exhibit 1)(Krause, Andrew) (Entered: 03/23/2018)
03/29/2018	<u>43</u>	LETTER addressed to Judge Denise L. Cote from Andrew E. Krause dated March 29, 2018 re: recent development in related matter. Document filed by Department of Justice.(Krause, Andrew) (Entered: 03/29/2018)
03/30/2018	<u>44</u>	ORDER: On February 21, 2018, an Order placed the cross-motions for summary judgment in abeyance on consent of the parties. In accordance with that Order, on March 23, 2018, the parties submitted a joint status report with competing proposals for how this case should proceed, in light of the governments representation that its responses to the FOIA request will be changed. Upon consideration thereof, it is hereby ORDERED that the defendants scheduling proposal is adopted. The defendant shall file a status report on May 18, 2018 and complete processing and production of responsive, non-exempt records subject to FOIA by July 20, 2018. IT IS FURTHER ORDERED that the pending motions for summary judgment are terminated as moot. IT IS FURTHER ORDERED that the parties shall submit a joint status report on next steps by August 3, 2018. IT IS FURTHER ORDERED that, when submitting any future scheduling proposals in this matter, the parties shall report on any scheduling proposals made to or adopted by the courts in James Madison Project v. Department of Justice, No. 17-597-APM (D.D.C.) and in Poulsen v. United States Department of Defense, No. 17-cv-3531-WHO (N.D. Cal.) to the extent that case concerns the Department of Justice or Federal Bureau of Investigation. IT IS FURTHER ORDERED that the plaintiffs request for attorneys fees and costs associated with the summary judgment briefing is denied. (Signed by Judge Denise L. Cote on 3/30/2018) (gr) (Entered: 03/30/2018)
05/18/2018	<u>45</u>	STATUS REPORT. Document filed by Department of Justice.(Krause, Andrew) (Entered: 05/18/2018)
07/03/2018	<u>46</u>	MOTION for Jeremy A. Kutner to Withdraw as Attorney . Document filed by Gizmodo Media Group, LLC.(Kutner, Jeremy) (Entered: 07/03/2018)
07/03/2018	<u>47</u>	DECLARATION of Jeremy A. Kutner in Support re: <u>46</u> MOTION for Jeremy A. Kutner to Withdraw as Attorney .. Document filed by Gizmodo Media Group, LLC. (Kutner, Jeremy) (Entered: 07/03/2018)
07/31/2018	<u>48</u>	ORDER granting <u>46</u> Motion to Withdraw as Attorney. Attorney Jeremy Alexander Kutner terminated. (Signed by Judge Denise L. Cote on 7/31/2018) (gr) (Entered: 07/31/2018)
08/01/2018	<u>49</u>	NOTICE OF CHANGE OF ADDRESS by Jeremy Alexander Kutner on behalf of Gizmodo Media Group, LLC. New Address: ProPublica, Inc., 155 Avenue of the Americas, 13th Floor, New York, New York, United States 10013, 917-512-0218. (Kutner, Jeremy) (Entered: 08/01/2018)
08/03/2018	<u>50</u>	JOINT LETTER addressed to Judge Denise L. Cote from Andrew E. Krause dated August 3, 2018 re: joint status report, in accordance with March 30, 2018 scheduling order (Dkt. No. 44). Document filed by Department of Justice.(Krause, Andrew) (Entered: 08/03/2018)
08/08/2018	<u>51</u>	ENDORSED LETTER addressed to Judge Denise L. Cote from Andrew E. Krause dated August 3, 2018 re: joint status report, in accordance with March 30, 2018 scheduling order. ENDORSEMENT: Status letter is due 8/10/18. (Signed by Judge Denise L. Cote on 8/8/2018) (gr) (Entered: 08/08/2018)
08/10/2018	<u>52</u>	JOINT LETTER addressed to Judge Denise L. Cote from Andrew E. Krause dated August 10, 2018 re: joint status report and proposed briefing schedule. Document filed by Department of Justice.(Krause, Andrew) (Entered: 08/10/2018)

08/15/2018	<u>53</u>	ENDORSED LETTER addressed to Judge Denise L. Cote from Andrew E. Krause dated August 10, 2018 re: joint status report and proposed schedule for summary judgment: Defendant's motion for summary judgment: 9/14/2018; Plaintiff's opposition and cross-motion for summary judgment: 10/9/2018; Defendant's reply and opposition: 10/30/2018; Plaintiff's reply 11/16/2018. ENDORSEMENT: Approved. (Signed by Judge Denise L. Cote on 8/15/2018) (gr) (Entered: 08/15/2018)
08/15/2018	<u>54</u>	NOTICE OF APPEARANCE by Jacquelyn Nicole Schell on behalf of Gizmodo Media Group, LLC. (Schell, Jacquelyn) (Entered: 08/15/2018)
08/23/2018	<u>55</u>	CONSENT MOTION for Kelly Brian McClanahan to Withdraw as Attorney . Document filed by Gizmodo Media Group, LLC. (Attachments: # <u>1</u> Text of Proposed Order)(McClanahan, Kelly) (Entered: 08/23/2018)
08/23/2018	<u>56</u>	ORDER: UPON CONSIDERATION OF Kelly McClanahan's Consent Motion to Withdraw as counsel, and the entire record herein, it is this 23rd day of August, 2018, ORDERED that the Motion is GRANTED. (Signed by Judge Denise L. Cote on 8/23/2018) (gr) (Entered: 08/23/2018)
09/14/2018	<u>57</u>	MOTION for Summary Judgment . Document filed by Department of Justice. Responses due by 10/9/2018(Krause, Andrew) (Entered: 09/14/2018)
09/14/2018	<u>58</u>	MEMORANDUM OF LAW in Support re: <u>57</u> MOTION for Summary Judgment . . Document filed by Department of Justice. (Krause, Andrew) (Entered: 09/14/2018)
09/14/2018	<u>59</u>	DECLARATION of Patrick N. Findlay in Support re: <u>57</u> MOTION for Summary Judgment .. Document filed by Department of Justice. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2)(Krause, Andrew) (Entered: 09/14/2018)
10/09/2018	<u>60</u>	CROSS MOTION for Summary Judgment . Document filed by Gizmodo Media Group, LLC.(Schulz, David) (Entered: 10/09/2018)
10/09/2018	<u>61</u>	MEMORANDUM OF LAW in Support re: <u>60</u> CROSS MOTION for Summary Judgment . <i>and in Opposition to Defendant's Motion for Summary Judgment.</i> Document filed by Gizmodo Media Group, LLC. (Schulz, David) (Entered: 10/09/2018)
10/09/2018	<u>62</u>	DECLARATION of Jacquelyn N. Schell in Support re: <u>60</u> CROSS MOTION for Summary Judgment .. Document filed by Gizmodo Media Group, LLC. (Attachments: # <u>1</u> Exhibit 1 – Full Transcript of Daily Caller Interview with Donald Trump, # <u>2</u> Exhibit 2 – White House Press Release)(Schulz, David) (Entered: 10/09/2018)
10/30/2018	<u>63</u>	REPLY MEMORANDUM OF LAW in Support re: <u>57</u> MOTION for Summary Judgment . <i>and in opposition to Plaintiff's cross-motion for summary judgment [Dkt. No. 60].</i> Document filed by Department of Justice. (Krause, Andrew) (Entered: 10/30/2018)
11/16/2018	<u>64</u>	REPLY MEMORANDUM OF LAW in Support re: <u>60</u> CROSS MOTION for Summary Judgment . . Document filed by Gizmodo Media Group, LLC. (Schulz, David) (Entered: 11/16/2018)
12/27/2018	<u>65</u>	STANDING ORDER M10-468: The United States Attorney's Office shall notify the Court immediately upon the restoration of Department of Justice funding. (As further set forth in this Order.) (Signed by Judge Colleen McMahon on 12/27/18) (yv) (Entered: 01/02/2019)